

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN W. OUGHTRED,

Plaintiff,

-against-

E*TRADE FINANCIAL CORPORATION, and
E*TRADE SECURITIES, LLC,

Defendants.

08 Civ. 3295 (SHS)


**NOTICE OF MOTION FOR
ADMISSION *PRO HAC VICE*
OF NICOLAS MORGAN,
PERRIE M. WEINER, AND
GREGG P. ZUCKER**

PLEASE TAKE NOTICE, that upon the annexed Affirmation of Joshua S. Sohn, dated

May 7, 2008, the annexed Affidavit of Nicolas Morgan dated May 2, 2008, and all attachments thereto; the annexed Affidavit of Perrie M. Weiner dated May 2, 2008, and all attachments thereto; and the annexed Affidavit of Gregg P. Zucker, and all attachments thereto, Defendants E*Trade Financial Corporation and E*Trade Securities, LLC will move this Court on submission before the Honorable Sidney H. Stein at the United States District Court for the Southern District of New York, United States Courthouse, 500 Pearl Street, New York, New York 10007-1312, for an order pursuant to Local Civil Rule 1.3(c) of this Court granting Nicholas Morgan, Perrie M. Weiner, and Gregg P. Zucker admission *pro hac vice* to this Court and for such other and further relief as this Court deems just and proper.

Dated: New York, New York

May 7, 2008

A handwritten signature in black ink, appearing to read "Joshua Sohn", is written over a horizontal line.

Joshua S. Sohn
DLA Piper US LLP
1251 Avenue of the Americas
New York, New York 10020- 1104
Tel: 212-335-4500
Fax: 212-335-4501
joshua.sohn@dlapiper.com

Attorneys for Defendants E*TRADE
Financial Corporation and E*TRADE
Securities LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
JOHN W. OUGHTRED,	: 08 Civ. 3295 (SHS)
	:
Plaintiff,	:
	:
-against-	:
	:
E*TRADE FINANCIAL CORPORATION, and	:
E*TRADE SECURITIES, LLC,	:
	:
Defendants.	:
-----X	

**AFFIRMATION OF JOSHUA S.
SOHN IN SUPPORT OF
ADMISSION *PRO HAC VICE*
OF NICOLAS MORGAN,
PERRIE M. WEINER, AND
GREGG P. ZUCKER**

I, JOSHUA S. SOHN, hereby declare pursuant to 28 U.S.C. § 1746 as follows:

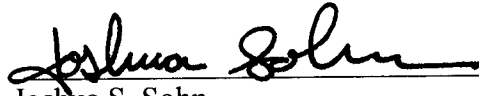
1. I am a partner with the law firm of DLA Piper US LLP, counsel for Defendants E*Trade Financial Corporation and E*TRADE Securities, LLC (collectively, the "E*Trade Defendants).
2. I have been a member in good standing of the Bars of the State of New York and of the United States District Court for the Southern District of New York since 1998. I respectfully submit this affirmation in support of the motion pursuant to Local Civil Rule 1.3 (c) of this Court for the admission *pro hac vice* of Nicolas Morgan, Perrie M. Weiner, and Gregg P. Zucker (together, "Applicants"), lawyers in the Los Angeles, California office DLA Piper US LLP.
3. The Applicants have been admitted to practice law in the State of California. They are and always have been members in good standing of the bars of the jurisdictions and courts in which they are admitted to practice. I believe that the Applicants are of high moral character and extremely competent in the practice of law.

4. The affidavits of the Applicants affirming their good standing with the bars of the jurisdictions and courts in which they are admitted to practice are being filed herewith. Their Certificates of Good Standing are attached to their accompanying affidavits.

5. I further affirm that I am familiar with the facts of this case and will assist the Applicants in the preparation of this case.

WHEREFORE, I respectfully request that the Court admit the Applicants *pro hac vice* and thereby permit them to appear and to participate in all further proceedings in this case on behalf of the E*Trade Defendants.

Dated: New York, New York
May 7, 2008



Joshua S. Sohn
DLA Piper US LLP
1251 Avenue of the Americas
New York, New York 10020- 1104
Tel: 212-335-4500
Fax: 212-335-4501
joshua.sohn@dlapiper.com

Attorneys for Defendants E*TRADE
Financial Corporation and E*TRADE
Securities LLC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JOHN W. OUGHTRED,	:	08 Civ. 3295 (SHS)
	:	
Plaintiff,	:	
	:	
-against-	:	AFFIDAVIT OF NICOLAS
	:	MORGAN IN SUPPORT OF
	:	MOTION FOR ADMISSION
E*TRADE FINANCIAL CORPORATION, and	:	PRO HAC VICE
E*TRADE SECURITIES, LLC,	:	
	:	
Defendants.	:	

-----X

STATE OF CALIFORNIA)
 : ss.:
COUNTY OF LOS ANGELES)

Nicolas Morgan, being duly sworn, deposes and says:

1. I submit this affidavit in support of the application by Defendants E*Trade Financial Corporation and E*TRADE Securities, LLC (collectively, the “E*Trade Defendants”) for my admission as an attorney *pro hac vice*.

2. I am a citizen of the United States and a resident of the State of California. I have been a member in good standing of the Bar of the State of California since December 1, 1993. A true and correct copy of my certificate of good standing for the State Bar of California is attached as Exhibit A. I am a partner at DLA Piper US LLP, attorneys for the E*Trade Defendants in the pending litigation.

3. I am also a member in good standing of the Bars of the United States District Court for the Central District of California, the United States District Court for the Southern District of California, and United States District Court for the Northern District of California. I

am in good standing and eligible to practice in these courts. I am not currently suspended or disbarred in any courts.

4. There is good cause to grant this application. The E*Trade Defendants wish me to be counsel on this matter due to my full familiarity with the facts and legal issues of this particular case, as well as my expertise nationally in this niche area of the law.

5. I have never been held in contempt of Court, nor have I ever been censured, suspended or disbarred by any court.

6. I have read and am familiar with:

- (a) the provisions of the Judicial Code which pertain to the jurisdiction of, and practice in, the United States District Courts;
- (b) the Federal Rules of Civil Procedure for the district courts;
- (c) the Federal Rules of Evidence for the United States Courts and Magistrates; and
- (d) the Code of Professional Responsibility of the American Bar Association, and will faithfully adhere thereto.

7. As a part of my admission *pro hac vice*, I agree:

- (a) to be bound by all procedural rules and disciplinary rules governing the practice of law before this Court;
- (b) to advise the Court if I cease to be a member in good standing of the Bar of the State of California;
- (c) to continue to work with New York counsel throughout the course of this case; and
- (d) to follow New York customs of practice.

WHEREFORE, I respectfully request that I be admitted to practice before this Court pro hac vice on behalf of the E*Trade Defendants pursuant to the proposed order annexed hereto.

NICOLAS MORGAN

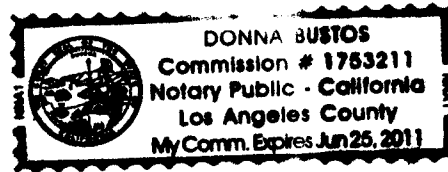
STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

On May 2, 2008, before me, Donna Bustos, notary public, personally appeared **Nicolas Morgan** who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public (Seal)





THE STATE BAR OF CALIFORNIA

MEMBER SERVICES CENTER

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

TELEPHONE: 888-800-3400

April 25, 2008

TO WHOM IT MAY CONCERN:

This is to certify that according to the records of the State Bar, NICOLAS MORGAN, #166441 was admitted to the practice of law in this state by the Supreme Court of California on December 1, 1993; and has been since that date, and is at date hereof, an ACTIVE member of the State Bar of California; and that no recommendation for discipline for professional or other misconduct has ever been made by the Board of Governors or a Disciplinary Board to the Supreme Court of the State of California.

THE STATE BAR OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Kath Lambert".

Kath Lambert
Custodian of Membership Records

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JOHN W. OUGHTRED,	:	08 Civ. 3295 (SHS)
	:	
Plaintiff,	:	
	:	
-against-	:	AFFIDAVIT OF PERRIE M.
	:	WEINER IN SUPPORT OF
	:	MOTION FOR ADMISSION
E*TRADE FINANCIAL CORPORATION, and	:	<i>PRO HAC VICE</i>
E*TRADE SECURITIES, LLC,	:	
	:	
Defendants.	:	

-----X

STATE OF CALIFORNIA)
 : ss.:
COUNTY OF LOS ANGELES)

Perrie M. Weiner, being duly sworn, deposes and says:

1. I submit this affidavit in support of the application by Defendants E*Trade Financial Corporation and E*TRADE Securities, LLC (collectively, the "E*Trade Defendants") for my admission as an attorney *pro hac vice*.

2. I am a citizen of the United States and a resident of the State of California. I have been a member in good standing of the Bar of the State of California since June 14, 1988. A true and correct copy of my certificate of good standing for the State Bar of California is attached as Exhibit A. I am a partner at DLA Piper US LLP, attorneys for the E*Trade Defendants in the pending litigation.

3. I am also a member in good standing of the Bars of the United States District Court for the Central District of California, the United States District Court for the Southern District of California, and United States District Court for the Northern District of California. I

am in good standing and eligible to practice in these courts. I am not currently suspended or disbarred in any courts.

4. There is good cause to grant this application. The E*Trade Defendants wish me to be counsel on this matter due to my full familiarity with the facts and legal issues of this particular case, as well as my expertise nationally in this niche area of the law.

5. I have never been held in contempt of Court, nor have I ever been censured, suspended or disbarred by any court.

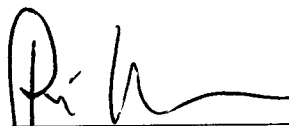
6. I have read and am familiar with:

- (a) the provisions of the Judicial Code which pertain to the jurisdiction of, and practice in, the United States District Courts;
- (b) the Federal Rules of Civil Procedure for the district courts;
- (c) the Federal Rules of Evidence for the United States Courts and Magistrates; and
- (d) the Code of Professional Responsibility of the American Bar Association, and will faithfully adhere thereto.

7. As a part of my admission *pro hac vice*, I agree:

- (a) to be bound by all procedural rules and disciplinary rules governing the practice of law before this Court;
- (b) to advise the Court if I cease to be a member in good standing of the Bar of the State of California;
- (c) to continue to work with New York counsel throughout the course of this case; and
- (d) to follow New York customs of practice.

WHEREFORE, I respectfully request that I be admitted to practice before this Court pro hac vice on behalf of the E*Trade Defendants pursuant to the proposed order annexed hereto.



PERRIE M. WEINER

Sworn to before me this
2 day of May, 2008



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los AngelesOn 5-2-08

Date

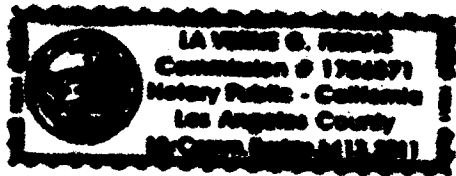
before me,

LaVerne Patane, Notary

Here Insert Name and Title of the Officer

personally appeared Perrie M. Weiner

Name(s) of Signer(s)



who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

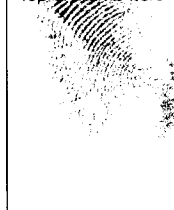
Document Date:

Number of Pages:

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)Signer's Name: Perrie M. Weiner

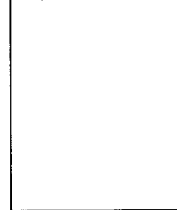
- ☐ Individual
☐ Corporate Officer — Title(s): _____
☒ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: Self
**RIGHT THUMBPRINT
OF SIGNER**
 Top of thumb here


Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

**RIGHT THUMBPRINT
OF SIGNER**
 Top of thumb here




THE STATE BAR OF CALIFORNIA

MEMBER SERVICES CENTER

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

TELEPHONE: 888-800-3400

April 29, 2008

TO WHOM IT MAY CONCERN:

This is to certify that according to the records of the State Bar, PERRIE MICHAEL WEINER, #134146 was admitted to the practice of law in this state by the Supreme Court of California on June 14, 1988; and has been since that date, and is at date hereof, an ACTIVE member of the State Bar of California; and that no recommendation for discipline for professional or other misconduct has ever been made by the Board of Governors or a Disciplinary Board to the Supreme Court of the State of California.

THE STATE BAR OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Kath Lambert", is written over a horizontal line.

Kath Lambert
Custodian of Membership Records

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JOHN W. OUGHTRED,	:	08 Civ. 3295 (SHS)
	:	
Plaintiff,	:	
	:	
-against-	:	AFFIDAVIT OF GREGG D.
	:	ZUCKER IN SUPPORT OF
	:	MOTION FOR ADMISSION
E*TRADE FINANCIAL CORPORATION, and	:	PRO HAC VICE
E*TRADE SECURITIES, LLC,	:	
	:	
Defendants.	:	

-----X

STATE OF CALIFORNIA)
 : ss.:
COUNTY OF LOS ANGELES)

Gregg D. Zucker, being duly sworn, deposes and says:

1. I submit this affidavit in support of the application by Defendants E*Trade Financial Corporation and E*TRADE Securities, LLC (collectively, the "E*Trade Defendants") for my admission as an attorney *pro hac vice*.

2. I am a citizen of the United States and a resident of the State of California. I have been a member in good standing of the Bar of the State of California since December 6, 1993. A true and correct copy of my certificate of good standing for the State Bar of California is attached as Exhibit A. I am a partner at DLA Piper US LLP, attorneys for the E*Trade Defendants in the pending litigation.

3. I am also a member in good standing of the Bars of the United States District Court for the Central District of California, the United States District Court for the Southern District of California, and United States District Court for the Northern District of California. I

am in good standing and eligible to practice in these courts. I am not currently suspended or disbarred in any courts.

4. There is good cause to grant this application. The E*Trade Defendants wish me to be counsel on this matter due to my full familiarity with the facts and legal issues of this particular case, as well as my expertise nationally in this area of the law.

5. I have never been held in contempt of Court, nor have I ever been censured, suspended or disbarred by any court.


6. I have read and am familiar with:

- (a) the provisions of the Judicial Code which pertain to the jurisdiction of, and practice in, the United States District Courts;
- (b) the Federal Rules of Civil Procedure for the district courts;
- (c) the Federal Rules of Evidence for the United States Courts and Magistrates; and
- (d) the Code of Professional Responsibility of the American Bar Association, and will faithfully adhere thereto.

7. As a part of my admission *pro hac vice*, I agree:

- (a) to be bound by all procedural rules and disciplinary rules governing the practice of law before this Court;
- (b) to advise the Court if I cease to be a member in good standing of the Bar of the State of California;
- (c) to continue to work with New York counsel throughout the course of this case; and
- (d) to follow New York customs of practice.

WHEREFORE, I respectfully request that I be admitted to practice before this Court pro hac vice on behalf of the E*Trade Defendants pursuant to the proposed order annexed hereto.




GREGG D. ZUCKER

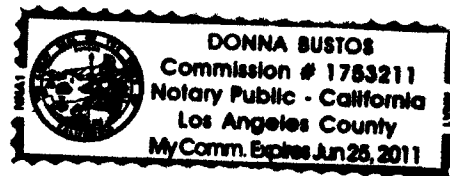
STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

On May 2, 2008, before me, Donna Bustos, notary public, personally appeared **Gregg D. Zucker** who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his/her/their signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.


Signature of Notary Public (Seal)





THE STATE BAR OF CALIFORNIA

MEMBER SERVICES CENTER

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

TELEPHONE: 888-800-3400

April 23, 2008

TO WHOM IT MAY CONCERN:

This is to certify that according to the records of the State Bar, GREGG DAVID ZUCKER, #166692 was admitted to the practice of law in this state by the Supreme Court of California on December 6, 1993; and has been since that date, and is at date hereof, an ACTIVE member of the State Bar of California; and that no recommendation for discipline for professional or other misconduct has ever been made by the Board of Governors or a Disciplinary Board to the Supreme Court of the State of California.

THE STATE BAR OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Kath Lambert".

Kath Lambert
Custodian of Membership Records

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JOHN W. OUGHTRED, :

Plaintiff, :

-against- :

E*TRADE FINANCIAL CORPORATION, and :
E*TRADE SECURITIES, LLC, :

Defendants. :

-----X

CERTIFICATE OF SERVICE

I, Bonny Zajac, a natural person over the age of eighteen who is not a party to this case, certify under penalty of perjury that on the 8th day of May, 2008, I caused to be served, by First Class U.S. Mail, in properly addressed wrappers with the proper postage affixed thereto, true and correct copies of:

1. Notice of Motion for Admission Pro Hac Vice of Nicolas Morgan, Perrie M. Weiner, and Gregg P. Zucker;

2. Affirmation of Joshua S. Sohn in Support of Admission Pro Hac Vice of Nicholas Morgan, Perrie M. Weiner, and Gregg P. Zucker;

3. Affidavit of Nicolas Morgan in Support of Motion for Admission Pro Hac Vice;

4. Affidavit of Perrie M. Weiner in Support of Motion for Admission Pro Hac Vice;

5. Affidavit of Gregg D. Zucker in Support of Motion for Admission Pro Hac Vice;
and

6. proposed Order

on the following attorneys:

Christopher A. Seeger, Esq.
SEEGER WEISS LLP
One William Street, 10th Floor
New York, NY 10004

Jonathan K. Levine, Esq.
GIRARD GIBBS LLP
601 California Street, Suite 1400
San Francisco, CA 94108

Norman R. Siegel, Esq.
STUEVE SIEGEL HANSON LLP
460 Nichols Road, Suite 200
Kansas City, MO 64112

Dated: New York, New York
May 8, 2008



Benny Zajac

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JOHN W. OUGHTRED, : 08 Civ. 3295 (SHS)

Plaintiff, :

ORDER

-against- :

E*TRADE FINANCIAL CORPORATION, and :

E*TRADE SECURITIES, LLC, :

Defendants. :

-----X

The motion for admission to practice *pro hac vice* in the above-captioned matter is granted. The admitted attorneys, Nicolas Morgan, Perrie M. Weiner, and Gregg P. Zucker, are permitted to argue or try this particular case in whole or in part as counsel or advocate.

An attorney admitted to practice *pro hac vice* is required to pay a \$25.00 attorney admission fee and present this Order to the intake deputy clerk in the Clerk's Office.

This Order confirms your appearances as counsel in this case, and it will be entered on the Court's docket. A notation of your admissions *pro hac vice* for the above listed case will be made on the roll of attorneys.

The attorneys admitted *pro hac vice* must serve a copy of this Order on all other counsel in this case.

Dated: New York, New York
May __, 2008

The Honorable Sidney H. Stein
United States District Judge